

§ 115C-43. Defense of board of education members and employees.

(a) Upon request made by or in behalf of any member or employee or former member or employee, any local board of education may provide for the defense of any civil or criminal action or proceeding brought against him either in his official or in his individual capacity, or both, on account of any act done or omission made, or any act allegedly done or omission allegedly made, in the scope and course of his duty as a member of or employee of the local board of education. The defense may be provided by the local board of education by its own counsel, or by employing other counsel, or by purchasing insurance which requires that the insurer provide the defense. Nothing in this section shall be deemed to require any local board of education to provide for the defense of any action or proceeding of any nature.

(b) Any local board of education may budget funds for the purpose of paying all or part of a claim made or any civil judgment entered against any of its members or employees or former members and employees, when such claim is made or such judgment is rendered as damages on account of any act done or omission made, or any act allegedly done or omission allegedly made, in the scope and course of his duty as a member of the local board of education or as an employee. Nothing in this section shall authorize any local board of education to budget funds for the purpose of paying any claim made or civil judgment entered against any of its members or employees or former members and employees if the local board of education finds that such member or employee acted or failed to act because of actual fraud, corruption or actual malice on his part. Any local board of education may budget for and purchase insurance coverage for payment of claims or judgments pursuant to this section. Nothing in this section shall be deemed to require any local board of education to pay any claim or judgment referred to herein, and the purchase of insurance coverage for payment of any such claim or judgment shall not be deemed an assumption of any liability not covered by such insurance contract, and shall not be deemed an assumption of liability for payment of any claim or judgment in excess of the limits of coverage in such insurance contract.

(c) Subsection (b) of this section shall not authorize any local board of education to pay all or part of a claim made or civil judgment entered or to provide a defense to a criminal charge unless (i) notice of the claim or litigation is given to the local board of education prior to the time that the claim is settled or civil judgment is entered and (ii) the local board of education shall have adopted, and made available for public inspection, uniform standards under which claims made, civil judgments entered, or criminal charges against members or employees or former members and employees shall be defended or paid. (1979, c. 1074, s. 1; 1981, c. 423, s. 1.)